

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

No. 82 CR 312

-against-

MUTULU SHAKUR,
Defendant.

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MEMORANDUM AND ORDER

HAGHT, Senior District Judge:

This case is revived by Defendant Shakur's renewed motion [Doc. 207] for a reduction of his sentence and a compassionate release from custody. Shakur relies upon 18 U.S.C. § 3582(c)(1)(A), a provision found in the First Step Act of 2018.

The Government's letter brief [Doc. 210] in opposition to Shakur's motion contends that under the statutory scheme, Shakur was procedurally ineligible to invoke that provision of the First Step Act.

Shakur's reply brief [Doc. 212] to that opposition says at page 3: "It is significant that this argument, raised for the first time, is the only objection raised by the Government. The Government does not make any argument against the substance of Mr. Shakur's motion."

Counsel's comment, while technically correct, may also have been an advocate's exercise in wishful thinking. In any event, it had the seeming effect of waking a sleeping lion. The Government's responsive letter [Doc. 213] repeats its position that "Shakur's ineligibility for relief is dispositive," which in the Government's somewhat lofty phrase "obviates the need for further

briefing.” However, the Government continues, “if the Court intends to consider Shakur’s motion on the merits,” the Government “requests the opportunity to submit a full opposition brief addressing the merits of Shakur’s motion.”

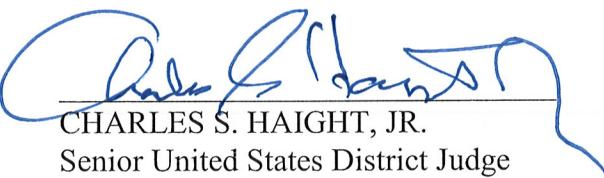
The Court will in fact consider Shakur’s motion on the merits, if that motion survives the Government’s procedural challenge. That declaration of intent should relieve any suspense on the point. The Court desires full briefing on all issues, procedural and substantive, in order to obtain maximum assistance from able counsel on both sides in this important and sensitive case.

To that end, the Government is directed to file and serve a further opposition brief on or before **July 22, 2022**. Defendant, if so advised, may file and serve a further reply brief on or before **July 29, 2022**. The Court sets relatively prompt dates because of the medical exigencies of the case. When these additional briefs are filed, Shakur’s motion will be deemed fully submitted. If the Court thereafter desires oral argument, counsel will be advised by Chambers.

The Court neither expresses nor intimates any present view as to the resolution of any issue in the case.

It is SO ORDERED.

Dated: New Haven, Connecticut
July 12, 2022


CHARLES S. HAIGHT, JR.
Senior United States District Judge